



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

ELP
Docket No. 722-00
19 May 2000

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) 10 U.S.C.1552

Encl: (1) DD Form 149 w/attachments
(2) Case Summary
(3) Subject's Naval Record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Navy, applied to this Board requesting, in effect, that his reenlistment code be changed.

2. The Board, consisting of Messrs. Bartlett, Swarens, and Hogue reviewed Petitioner's allegations of error and injustice on 17 May 2000, and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Enclosure (1) was filed in a timely manner.

c. Petitioner enlisted in the Navy on 7 May 1997 for four years at age 18. At that time, he extended his enlistment an additional period of 24 months in exchange for training in the

Nuclear Field Program and accelerated advancement to pay grade E-4.

d. On 18 June 1997, Petitioner had a "CT scan" of his chest which showed a "soft tissue density mas [sic] involving the prevascular region of the anterior mediastirum extending to the aortopulmonary window." The report of medical examination noted that a surgery consult revealed a benign appearance. Although considered disqualifying, a waiver was recommended. However, on 28 August 1997, that recommendation was disapproved by the Chief of Naval Personnel. The report of medical examination showed that on 16 September 1997 Petitioner was found not physically qualified for nuclear field duty and to perform the duties of rate at sea, foreign service, or submarine duty.

e. On 17 September 1997, Petitioner requested discharge from the Navy on the basis of a defective enlistment since he was medically disqualified from the nuclear field program. The discharge authority directed an entry level separation and assignment of an RE-3R reenlistment code. On 2 October 1997 Petitioner received an uncharacterized entry level separation by reason of "failed medical/physical procurement standards" and was assigned an RE-4 reenlistment code

f. Regulations required the assignment of an RE-4 reenlistment code to individuals separated by reason of failed medical/physical procurement standards. However, an RE-3E reenlistment code may be assigned to an individual who is separated due to an erroneous enlistment. It appears that medical condition which subsequently disqualified Petitioner for the nuclear field program would have disqualified him for enlistment had the condition been known at the time of his enlistment. An RE-3R reenlistment code is assigned only to individuals who have completed their first enlistment and who have not met the professional growth criteria but are eligible in all respects for reenlistment.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action. In this regard, the Board notes Petitioner had no

disciplinary or performance problems during his short period of service. Since a waiver of Petitioner's medical condition was requested, it was unclear to the Board whether or not it was totally disqualifying for enlistment. The Board believes that he could have also been separated by reason of erroneous enlistment with an RE-3E reenlistment code. Although this code is not authorized for the reason of "failed medical/physical procurement standards", the Board believes that assignment of this code would be more appropriate in Petitioner's case, given his satisfactory performance and conduct, and given the derogatory nature of the RE-4 reenlistment code. The Board also believes that Petitioner should not be prevented from serving again if the medical condition no longer exists. Accordingly, the Board concludes that it would be appropriate and just to change the reenlistment code to RE-3E.

RECOMMENDATION:


a. That Petitioner's naval record be corrected by changing the RE-4 reenlistment code, assigned on 2 October 1997, to RE-3E. This should include the issuance of a new DD Form 214.

b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

c. That any material directed to be removed from Petitioner's naval record be returned to the Board together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross references being made a part of Petitioner's naval record.

4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6 (e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6 (e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



For W. DEAN PFEIFFER
Executive Director